

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
TITLE III

No. 17-BK-03283 (LTS)

(Jointly Administered)

**URGENT MOTION OF THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO, ACTING THROUGH ITS SPECIAL CLAIMS
COMMITTEE, FOR ENTRY OF AN ORDER AUTHORIZING THE FILING
OF THE CONFIDENTIAL LIST OF AVOIDANCE ACTIONS
RE: THIRD PARTY CLAIMS UNDER SEAL**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico, acting through its Special Claims Committee (the “SCC”), respectfully submit this urgent motion (the “Motion”) seeking the entry of an order authorizing the filing of the confidential list of third party claims under seal. In support of the Motion, the SCC respectfully states as follows:

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (iv) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) Last Four Digits of Federal Tax ID: 3808); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

JURISDICTION

1. The United States District Court for the District of Puerto Rico (the “Court”) has subject matter jurisdiction over this matter pursuant to section 306(a) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”).²

2. Venue is proper pursuant to PROMESA § 307(a).

BACKGROUND

3. At a hearing held in this matter on April 18, 2019, the Court directed the SCC to: (i) electronically mail a copy of the confidential list of third party claims (the “Third Party Claims List”) to the Honorable United States District Court Judge Laura Taylor Swain; (ii) electronically mail a copy of the Third Party Claims List to counsel of interested parties on an attorneys’ eyes only basis; and (iii) file a copy of the Third Party Claims List under seal on the Court’s docket. The Third Party Claims List was sent electronically to the chambers email address on April 18, 2019 and was sent electronically to counsel of interested parties on April 18, 2019 and thereafter as requested by counsel.

REQUESTED RELIEF

4. The SCC seeks authority, pursuant to Bankruptcy Code Sections 105(a) and 107(b), and Bankruptcy Rule 9018, to file the Third Party Claims List under seal as directed by the Court.

BASIS FOR REQUESTED RELIEF

5. Despite the public’s common law right of access to judicial proceedings and records, the Bankruptcy Code requires courts, when appropriate, to limit the public’s access to sensitive information. Section 107(b) of the Bankruptcy Code provides, in relevant part, that:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may--

² PROMESA has been codified at 48 U.S.C. §§ 2101-2241.

- (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or
- (2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

11 U.S.C. § 107(b).

6. In addition, section 105(a) of the Bankruptcy Code permits the court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

7. Bankruptcy Rule 9018, which implements the protections provided by Section 107, sets forth the procedure by which a party in interest may obtain a protective order authorizing the filing of a document under seal. This rule reads in relevant part:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information

Fed. R. Bankr. P. 9018.

CONCLUSION

WHEREFORE, the SCC seeks the entry of an Order, substantially in the form attached hereto as Exhibit A, authorizing the SCC to file the Third Party Claims List under seal, and granting such relief as the Court deems just and proper under the circumstances.

Dated: April 22, 2019

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Exhibit A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

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	:	
In re:	:	
	:	
THE FINANCIAL OVERSIGHT AND	:	PROMESA
MANAGEMENT BOARD FOR PUERTO RICO,	:	Title III
	:	
as representative of	:	Case No. 17-BK-3283 (LTS)
	:	
THE COMMONWEALTH OF PUERTO RICO <i>et al.</i> ,	:	(Jointly Administered)
	:	
Debtors. ³	:	
	X	

**[PROPOSED] ORDER AUTHORIZING THE FILING OF THE CONFIDENTIAL LIST
OF AVOIDANCE ACTIONS RE: THIRD PARTY CLAIMS UNDER SEAL**

Upon the urgent motion dated April 22, 2019 (the “Motion”)⁴ of the Oversight Board, acting through its Special Claims Committee, pursuant to sections 105(a) and 107(b) of the Bankruptcy Code, and Bankruptcy Rule 9018, made applicable to this proceeding by section 301(a) of the Puerto Rico Opportunity Management and Economic Stability Act of 2016 (“PROMESA”), 48 U.S.C. § 2161(a); and the Court having jurisdiction over this matter under 28 U.S.C. 1331, and under section 306(a)-(b) of PROMESA, 48 U.S.C. §2166(a)-(b); and venue being proper under section 307(a) of PROMESA, 48 U.S.C. § 2167(a); and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need

³ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

⁴ Capitalized terms not defined in this Order shall have the meanings ascribed to them in the Motion.

be provided; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefore, it is hereby

ORDERED that this Motion is granted; and it is further

ORDERED that the Third Party Claims List shall be filed under seal.

Dated: _____, 2019

Honorable Laura Taylor Swain
United States District Judge